

§ 19.211

fruit-flavor concentrate plant or vice-versa, the proprietor must comply with the requirements of §§18.39 and 18.41 through 18.43 of this title.

[T.D. ATF-455, 66 FR 29482, May 31, 2001]

PERMANENT DISCONTINUANCE OF BUSINESS

§ 19.211 Notice of permanent discontinuance.

When the proprietor permanently discontinues any or all of the operations listed in the notice of registration, he shall file a Form 5110.41 to show the discontinuance. Form 5110.41 shall be accompanied (a) by all permits issued to the proprietor under this subpart covering the discontinued operations, and by the proprietor's request that such permits be canceled; (b) by the proprietor's written statement disclosing, as applicable, whether (1) all spirits, denatured spirits, articles, wines, liquor bottles, and other pertinent items have been lawfully disposed of, (2) any spirits, denatured spirits, wines, or liquor bottles are in transit to the premises, (3) all approved applications for transfer of spirits and denatured spirits to the premises have been secured and returned to the regional director (compliance) for cancellation; and (c) by pertinent reports covering the discontinued operations (each report shall be marked "Final Report").

(Sec. 201, Pub. L. 85-859, 72 Stat. 1349, as amended, 1370, as amended (26 U.S.C. 5172, 5271))

[T.D. ATF-206, 50 FR 23951, June 7, 1985]

Subpart H—Bonds and Consents of Surety

§ 19.231 Filing of operations or unit bonds.

Every person intending to establish a distilled spirits plant shall file an operations or unit bond as prescribed in this subpart, covering distilled spirits operations at such plant, with the regional director (compliance), at the time of filing the original application for registration of the plant, and at such other times as are required by this part. Such bond shall be conditioned that he shall faithfully comply with all provisions of law and regula-

27 CFR Ch. I (4-1-03 Edition)

tions relating to activities covered by such bond, will pay all taxes imposed by 26 U.S.C. Chapter 51, and shall pay all penalties incurred or fines imposed for violation of any such provisions. The regional director (compliance) may require, in connection with any operations or unit bond, a statement, executed under the penalties of perjury, as to whether the principal or any person owning, controlling, or actively participating in the management of the business of the principal has been convicted of or has compromised any offense set forth in §19.237(a)(1) or has been convicted of any offense set forth in §19.237(a)(2). In the event the above statement contains an affirmative answer, the applicant shall submit a statement describing in detail the circumstances surrounding such conviction or compromise. No person shall commence or continue distilled spirits operations at such plant unless he has a valid operations or unit bond (and consent of surety, if necessary), as required in respect of such operations by this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1394, as amended (26 U.S.C. 5551); sec. 805(c), Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173))

[T.D. ATF-198, 50 FR 8464, Mar. 1, 1985; 50 FR 23410, June 4, 1985]

§ 19.232 Additional condition of operations bond.

In addition to the requirements of §19.231, the operations bond shall be conditioned on payment of the tax now or hereafter in force, except as provided by law, including taxes on all unexplained shortages of bottled distilled spirits.

(Sec. 805(c), Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173))

§ 19.233 Corporate surety.

(a) Surety bonds required by this part may be given only with corporate sureties holding certificates of authority from, and subject to the limitations prescribed by, the Secretary as set forth in the current revision of Treasury Department Circular 570 (Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies).

(b) Treasury Department Circular No. 570 is published in the FEDERAL REGISTER yearly as of the first work-day of July. As they occur, interim revisions of the circular are published in the FEDERAL REGISTER. Copies may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, DC 20226.

(Ch. 390, Pub. L. 80-280, 61 Stat. 648 as amended (31 U.S.C. 9304, 9306))

§ 19.234 Deposit of securities in lieu of corporate surety.

In lieu of corporate surety, the principal may pledge and deposit, as surety for his bond, securities which are transferable and are guaranteed as to both interest and principal by the United States, in accordance with the provisions of 31 CFR part 225.

(Ch. 390, Pub. L. 80-280, 61 Stat. 650 (31 U.S.C. 9301, 9303))

§ 19.235 Consents of surety.

Consents of surety to changes in the terms of bonds shall be executed on Form 1533 by the principal and by the surety with the same formality and proof of authority as is required for the execution of bonds.

(Sec. 805(c), Pub. L. 96-39, 93 Stat. 276 (26 U.S.C. 5173))

§ 19.236 Filing and execution of powers of attorney.

(a) *Filing.* Each bond, and each consent to changes in the terms of a bond, shall be accompanied by a power of attorney authorizing the agent or officer who executed the bond or consent to so act on behalf of the surety. The regional director (compliance) who is authorized to approve the bond may require additional evidence of the authority of the agent or officer to execute the bond or consent.

(b) *Execution.* The power of attorney shall be prepared on a form provided by the surety company and executed under the corporate seal of the company. If the power of attorney submitted is other than a manually signed original, it shall be accompanied by certification of its validity.

(Ch. 390, Pub. L. 80-280, 61 Stat. 648 (31 U.S.C. 9304, 9306))

§ 19.237 Disapproval of bonds or consents of surety.

(a) *Disapproval.* The regional director (compliance) may disapprove any bond or consent of surety submitted in respect to the operations of a distiller, warehouseman, or processor, if the principal or any person owning, controlling, or actively participating in the management of the business of the principal shall have been previously convicted, in a court of competent jurisdiction of—

(1) Any fraudulent noncompliance with any provision of any law of the United States, if such provision related to internal revenue or customs taxation of spirits, wines, or beer, or if such an offense shall have been compromised with the person on payment of penalties or otherwise, or

(2) Any felony under a law of any State or the District of Columbia, or the United States, prohibiting the manufacture, sale, importation, or transportation of spirits, wine, beer, or other intoxicating liquor.

(b) *Appeal.* Where a bond or consent of surety is disapproved by the regional director (compliance), the person giving the bond may appeal to the Director, who will hear such appeal. The decision of the Director shall be final.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1394, as amended (26 U.S.C. 5551))

§§ 19.238-19.240 [Reserved]

§ 19.241 Operations bond—distilled spirits plant and adjacent bonded wine cellar.

(a) *General.* A wine cellar under the provisions of 27 CFR part 24 shall be treated as being adjacent to a distilled spirits plant if—

(1) Such distilled spirits plant is qualified under subpart G for the production of distilled spirits; and

(2) Such wine cellar and distilled spirits plant are operated by the same person (or in the case of a corporation, by such corporation and its controlled subsidiaries). For the purpose of this section a controlled subsidiary is a corporation where more than 50 percent of the voting power is controlled by the parent corporation.

(b) *Bond in lieu of wine cellar bond.* In the case of an adjacent bonded wine